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**UTILITY
PATENT APPLICATION
TRANSMITTAL**

Attorney Docket No.

8932-114

Total Pages

20

First Named Inventor or Application Identifier

D. MESSERLI et al.

Express Mail Label No.

N/A

APPLICATION ELEMENTS
See MPEP chapter 600 concerning utility patent application contents.

ADDRESS TO: Assistant Commissioner for Patents
Box Patent Application
Washington, DC 20231

1. ☒ Fee Transmittal Form
Submit an original, and a duplicate for fee processing)

2. ☒ Specification [Total Pages 12]
(preferred arrangement set forth below)

- Descriptive title of the Invention
- Cross Reference to Related Applications
- Statement Regarding Fed sponsored R&D
- Reference to Microfiche Appendix
- Background of the Invention
- Brief Summary of the Invention
- Brief Description of the Drawings (if filed)
- Detailed Description of the Invention (including drawings, if filed)
- Claim(s)
- Abstract of the Disclosure

3. Drawing(s) (35 USC 113) [Total Sheets 6]

4. Declaration & Power of Attorney [Total Sheets 2]

- ☒ Newly executed (original or copy)
- ☐ Copy from a prior application (37 CFR 1.63(d))
(for continuation/divisional with Box 17 completed)
[Note Box 5 below]

i. ☐ **DELETION OF INVENTORS(S)**
Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33 (b).

5. Incorporation By Reference (useable if Box 4b is checked)
The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied under Box 4b, is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.

6. ☐ Microfiche Computer Program (Appendix)

7. ☐ Nucleotide and/or Amino Acid Sequence Submission
(if applicable, all necessary)

a. ☐ Computer Readable Copy

b. ☐ Paper Copy (identical to computer copy)

c. ☐ Statement verifying identity of above copies

ACCOMPANYING APPLICATION PARTS

8. ☒ Assignment Papers (cover sheet & document(s))

9. ☐ 37 CFR 3.73(b) Statement ☐ Power of Attorney
(when there is an assignee)

10. ☐ English Translation Document (if applicable)

11. ☐ Information Disclosure Statement (IDS)/PTO-1449 ☐ Copies of IDS Citations

12. ☐ Preliminary Amendment

13. ☒ Return Receipt Postcard (MPEP 503)
(Should be specifically itemized)

14. ☐ Small Entity Statement filed in prior application,
Statement(s) Status still proper and desired

15. ☐ Certified Copy of Priority Document(s)
(if foreign priority is claimed)

16. ☐ Other:

17. If a CONTINUING APPLICATION, check appropriate box and supply the requisite information:

☐ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No: filed .

18. CORRESPONDENCE ADDRESS

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PENNIE & EDMONDS LLP
COUNSELLORS AT LAW
1667 K Street, N.W.
Washington, D.C. 20006
(202) 496-4400

ATTORNEY DOCKET NO. 8932-114

Date: February 3, 2000

Box PATENT APPLICATION
Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

The following utility patent application is enclosed for filing:

Applicant(s): **Dominique D. MESSERLI and David C. PAUL**

Executed on: January 20, 2000

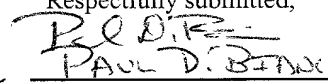
Title of Invention: **END MEMBER FOR A BONE FUSION IMPLANT**

PATENT APPLICATION FEE VALUE

TYPE	NO. FILED	LESS	EXTRA	EXTRA RATE	FEE
Total Claims	23	-20	3	\$18.00 each	\$ 54.00
Independent	3	-3	0	\$78.00 each	\$ 0.00
Minimum Fee					\$ 690.00
Multiple Dependency Fee If Applicable (\$260.00)					\$ 0.00
Total					\$ 744.00
50% Reduction for Independent Inventor, Nonprofit Organization or Small Business Concern (a verified statement as to the applicant's status is attached)					- \$ 0.00
Total Filing Fee					\$ 744.00

- ☒ Priority of Provisional Application No. 60/118,806 filed on February 4, 1999 is claimed under 35 U.S.C. § 119(e).
- ☐ The certified copy of the priority application has been filed in application no. filed
- ☐ Amend the specification by inserting before the first line the following sentence: This is a continuation-in-part of application no. filed.

Please charge the required fee to Pennie & Edmonds LLP Deposit Account No. 16-1150. A copy of this sheet is enclosed.

Respectfully submitted,

PAUL D. BENICO
For Allan A. Fanucci
PENNIE & EDMONDS LLP

43,500
30,256
(Reg. No.)

Enclosures

This form is not for use with continuation, divisional, re-issue, design or plant patent applications.

END MEMBER FOR A BONE FUSION IMPLANT

Cross-Reference to Related Applications

5 Priority of Provisional Application no. 60/118,806 filed on February 4, 1999 is claimed under 35 U.S.C. § 119(e).

Field of the Invention

10 The present invention relates to a device for bone fusion, and in particular to an end member for a bone fusion implant.

Background of the Invention

 The treatment and management of bone defects remains one of the most challenging aspects of orthopaedics. Bone defects occur in a wide variety of clinical situations.

15 Restoring natural anatomical length and shape of any long bone with a bone defect is problematic. Additionally, whenever a vertebra has to be removed, it is necessary to insert a vertebral spacer to restore the natural length and curvature of the spine as well as to promote bone fusion. Restoring spinal anatomy and stability and promoting bone fusion are even more difficult in a corpectomy, a surgical procedure in which a section of one or
20 several vertebrae is removed.

 Many different implants have been developed for use with bone defects. So-called “mesh implants” have shown to be particularly effective. One such implant is the SynMesh™ available from Synthes (USA) of Paoli, Pennsylvania. The SynMesh™ is a titanium mesh cylinder which is provided with a plurality of uniformly-spaced apertures of
25 uniform size distributed on its surface. In order to address the different clinical situations in which bone defects arise, the SynMesh™ is available in a variety of lengths and diameters. Commercially available allografts for treating bone defects have recently become available.

 Although the clinical results of mesh and allograft implants have generally been positive, one possible clinical complication is subsidence of the implant. Excessive sinking
30 of the ends of the implant into the bone with which they contact is especially troublesome whenever the bone is extremely porous. From both a mechanical and physiological point-of-view, it would also be advantageous to increase the surface contact area between the implant and bone. U.S. Patent No. 5,702,451 to Biedermann *et al.* discloses end rings that attempt to address these concerns. However, the end rings disclosed have no provisions for
35 holding, insertion, and distraction instruments. Thus, implantation can be difficult.

Furthermore, there can be excessive movement between the bone and the disclosed end rings after implantation. This may delay, and perhaps prevent bone fusion.

As the discussion above illustrates, there is a need for an improved end member for use with a bone fusion implant.

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Summary of the Invention

The present invention relates to an end member for use with a bone fusion implant for fusing portions of bone. The end member has a first portion, a second portion sized to be inserted into the bore of the implant, and a shoulder between the first and second
10 portions. When the second portion is inserted into the bore, the shoulder rests on an edge of the implant. The top surface of the first portion conforms in size and shape with the bone and has a channel or multiple channels for receiving a surgical instrument. When multiple channels are present, all the channels can run in the same direction, (*e.g.* the channels run in the anterolateral direction), or the channels can run in different directions, (*e.g.* a first
15 channel runs in the anterior-posterior direction and a second channel runs in the lateral direction).

If the implant is made of metal, the end member is made of the same material in order to resist corrosion. The end member may also be made of allograft bone. The end member may have a wedge-shaped or spherical profile to restore the natural curvature of
20 bone or to correct for a non-orthogonal osteotomy. One way to create the wedge-shaped profile is to have the first end of the first portion to be thicker than the second end.

The top surface can be made in any suitable cross-sectional shape, such as oval, oblong, or round, and may be annular or solid. The top surface can be a flat planar surface or can have a curvature that mimics the topography of the bone. The top surface may be
25 provided with teeth or textured for interlocking with the bone. The teeth may have a pyramid or saw tooth shape.

In order to secure the end member to the implant, the second portion may have a hole for receiving a fastener. Alternatively, the exterior surface of the second portion may have protuberances that are sized to fit within the apertures of the implant. In an exemplary
30 embodiment, the second portion comprises a plurality of tabs to secure the end member to the implant. These tabs may be resilient so that the tabs flex inward upon insertion of the second portion into the implant and flex back outward to create a friction fit that secures the end member to the implant. In another embodiment, the end member includes a projection hinged or pivotably connected to the first portion, a threaded bore in the second portion, and
35 a set screw insertable into the threaded bore. Threading the set screw into the bore causes outward movement of the projection to thereby secure the end member to the implant.

In an alternative embodiment, an end member according to the present invention includes a top surface conforming in size and shape with the bone and a sleeve extending from the top surface and configured and dimensioned to receive an end of the implant. The end member further comprises first and second portions pivotable between an open position to facilitate receiving the end of the implant by the sleeve and a closed position to secure the end member to the implant. A locking element fixes the end member in the closed position.

In another alternative embodiment, the end member includes an outer ring having a prong with a ramped surface and an inner ring rotatable with respect to the outer ring. The inner ring has a protrusion which contacts the ramped surface of the prong upon rotation to thereby urge the prong radially outward.

Brief Description of the Drawings

Preferred features of the present invention are disclosed in the accompanying drawings, wherein similar reference characters denote similar elements throughout the several views, and wherein:

FIG. 1 shows a perspective view of a first embodiment of an end member according to present invention;

FIG. 2 shows a side view of the end member of FIG. 1 inserted into a cylindrical mesh implant;

FIG. 3 shows a perspective view of an end member having an oblong shape;

FIG. 4a shows a perspective view of an end member having an oblong shape and teeth for improving implant stability;

FIG. 4b shows a perspective view of an end member having first and second slots for facilitating use with implantation instrumentation;

FIG. 4c shows a perspective view of another embodiment of an end member having first and second slots;

FIG. 5 shows a side view of an end member having a wedge-shape profile;

FIG. 6 shows a perspective view of an end member having protuberances for fixation to the implant;

FIG. 7 shows a perspective view of a non-annular end member;

FIG. 8 shows a perspective view of the bottom of an end member according to the present invention;

FIG. 9 shows a perspective view of the bottom of an end member according to the present invention;

FIG. 10 shows a top view of another embodiment of the end member according to the present invention;

FIG. 11 shows a cross-sectional view of the end member of FIG. 10;

FIG. 12 shows a top view of another embodiment of the end member according to
5 the present invention;

FIG. 13 shows the end member of FIG. 12 secured to a cylindrical mesh implant;
and

FIG. 14 shows a cross-sectional view of another embodiment of the end member
according to the present invention.

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Detailed Description of the Preferred Embodiments

FIG. 1 shows a first embodiment of an end member 10 according to the present invention. End member 10 has a first portion 12 and a second portion 14. As first portion 12 is larger than second portion 14, a shoulder 16 is formed at the intersection between first
15 and second portions 12, 14. A top surface 18 of first portion 12 is provided with a first slot 20 for accommodating surgical instrumentation such as holding, insertion, and/or distraction instruments. Top surface 18 is shown in FIG. 1 with a round shape. However, as will be evident from the other embodiments, top surface 18 can have any suitable shape. Preferably, top surface 18 has a shape that matches the shape of the bone it will contact.

20 Second portion 14 is also shown having a round shape. As was the case for top surface 18, second portion 14 can have any suitable shape. Preferably, the shape of second portion 14 matches the shape of the bone fusion implant used with the end member. As best seen in FIG. 2, second portion 14 is sized and shaped to be inserted into the inner bore of a bone fusion implant 22 so that shoulder 16 rests on bone fusion implant 22. Bone
25 fusion implant 22 can be a number of different implant types, including, for example, a mesh implant, an allograft implant, or any metallic or non-metallic implant. If implant 22 is made of a metallic material, end member 10 is preferably made of the same metallic material or a non-metallic material to avoid mixed-metal (galvanic) corrosion. End member 10 can also be made of allograft bone from cancellous bone, cortical bone, a combination of
30 cancellous and cortical bone, or a composite of cancellous and cortical bone. After implantation of end member 10 and bone fusion implant 22, physiological compressive forces will tend to hold end member 10 in place against bone fusion implant 22. However, to provide further stability as well as to facilitate pre-operative and intra-operative handling, second portion 14 can be secured to bone fusion implant 22. For example, second portion
35 14 can be press-fit or snap-fit into bone fusion implant 22. Additionally, because bone fusion implant 22 is typically deformable, bone fusion implant 22 can be crimped to end

member 10. Second portion 14 can also be provided with a hole 24 for receiving a fastener such as a pin or a screw. End member 10 is inserted into bone fusion implant 22 so that hole 24 aligns with one of apertures 26 on bone fusion implant 22. Hole 24 can extend either partially or completely through second portion 14 and can be threaded. As shown in
5 FIG. 6, second portion 14 can alternatively have protuberances 28 that are sized to fit in apertures 26 for mechanically securing the end member to the bone fusion implant. Other exemplary mechanisms for securing the end member to the bone fusion implant are described in more detail below

Referring back to FIGS. 1 and 2, the surface area of top surface 18 is greater than the
10 surface area of the top and bottom surfaces of bone fusion implant 22. Because of this greater surface area, there is more contact area between top surface 18 and the surrounding bone than there would be for the top and bottom surfaces of implant 22. The increase in contact area helps to resist subsidence of implant 22. The increased contact area has other benefits such as greater load sharing between end member 10 and the surrounding bone.

15 Top surface 18 is shown as a ring with an annular space 30. New bone can form in annular space 30 to promote fusion. Annular space can be filled with bone chips or any other osteoinductive or osteoconductive material to promote the formation of bone.

Alternatively, as shown in FIG. 7, top surface 18 can be a solid surface to maximize contact area between top surface 18 and the surrounding bone. A solid top surface 18 would be
20 desirable in clinical situations in which subsidence is especially a concern.

FIG. 3 shows a second embodiment of an end member 110 according to the present invention. In general, most of the structure of end member 110 (as well as the embodiments described below) is like or comparable to the structure of end member 10 and, accordingly the same reference numeral is used for like components and discussion of those like

25 components is not believed necessary. End member 110 has an oval or oblong shape and would be used in situations in which the surrounding bone (and consequently the bone fusion implant) is substantially oval or oblong. When the end member has a non-symmetrical shape like end member 110, first slot 20 can be provided in any orientation.

For example, first slot 20 is shown running along the long axis of end member 110, but
30 could run in any direction to be oriented differently with respect to the surrounding bone.

The variability in the placement of first slot 20 means that first slot 20 can be positioned as best suited for the particular surgical approach that is being used. Specifically, if end member 110 is being implanted with the short axis in the anterior/posterior direction, then first slot 20 is ideal for a lateral surgical approach. If an anterior or posterior approach is
35 anticipated, then first slot 20 should run in the anterior-posterior direction.

FIG. 4a shows an end member 210 with first slot 20 running at an angle with respect to the long axis of end member 210. This direction of first slot 20 is preferred for an anterolateral surgical approach, which can be used in spinal surgery. FIG. 4b shows an end member 212 that includes first and second slots 20, 21, both running at an angle with respect to the long axis of end member 212. Preferably, first and second slots 20, 21 are symmetrically placed with respect to the long axis of end member 212. Providing end member 212 with both first and second slots 20, 21 allows at least one of first and second slots 20, 21 to be accessed during implantation regardless of whether the left or right side is used for the anterolateral surgical approach. Furthermore, the arrangement of slots 20, 21 allows one end member to be used on each end of bone fusion implant and still have the slots on the top end member align with slots on the bottom end member. FIG. 4c shows an end member 214 that also includes first and second slots 20, 21. First slot 20 runs parallel to the long axis of end member 214 and second slot 21 runs transverse to the long axis of end member 214. Including both first and second slots 20, 21 on end member 214 provides access to at least one of first and second slots 20, 21 regardless of the implantation orientation of end member 214 or the surgical approach.

For each of the end members shown in FIGS. 4a, 4b, and 4c, top surface 18 has a plurality of teeth 32 which provides a mechanical interlock between the end member and the surrounding bone. Teeth 32 provide the mechanical interlock by penetrating the bone. The initial mechanical stability afforded by teeth 32 minimizes the risk of post-operative pullout or expulsion of the end member. Teeth 32 can have any suitable configuration such as pyramid-shaped, saw-tooth shaped, etc. Alternatively, top surface 18 can be textured to provide the mechanical interlock between the end member and the surrounding bone.

As seen in FIG. 5, an end member 310 has a wedge profile. A wedge profile would be useful in spinal applications in order to restore the natural curvature of the spine or any bone. A wedge profile would also be useful to compensate for a non-perpendicular osteotomy cut dictated by the pathology, clinical situation, or erroneously made to remove bone. It should be noted that as an end member would ordinarily be used on each end of bone fusion implant, end members having different wedge profiles can be used together. One way to achieve this wedge shape results from a gradual decrease in thickness in first portion 12 from a first end 34 to a second end 36 so that top surface 18 has a slope defined by angle α . In FIG. 5, top surface 18 is shown as a flat planar surface. However, top surface 18 can be a curved surface and still retain the wedge-shaped profile. As the curve can be made to be a mirror-image of the topography of the vertebral end plates, a curved top surface 18 would conform to the contours of the vertebral end plates.

As previously discussed, FIG. 6 shows an end member 410 that is provided with protuberances 28 sized to fit in apertures 26 of bone fusion implant 22 (FIG. 2). FIG. 7, which has also been discussed, shows an end member 510 having a solid top surface 18 that is preferably used when there is a higher incidence of subsidence.

5 FIG. 8 shows an end member 610 that has a second portion 14 that includes a plurality of tabs 40 for securing end member 610 to bone fusion implant 22. In one embodiment, tabs 40 are resilient so that as second portion 14 of end member 610 is pushed into bone fusion implant, tabs 40 flex inward and then back outward to secure end member 610 to bone fusion implant 22. As bone fusion implant 22 has some elasticity which would
10 allow it to flex outward to accept tabs 40, tabs 40 need not be resilient. The number, size, and arrangement of tabs 40 can be varied. FIG. 9 shows an end member 710 that is similar to end member 610 except for the overall change in shape (from round to oval or oblong).

FIGS. 10 and 11 show an end member 810 that has another mechanism for securing end member 810 to bone fusion implant 22. Specifically, end member 810 is a cap that sits
15 on top of implant 22. End member 810 includes a top surface 812 conforming in size and shape with the bone and a sleeve 814 extending from top surface 812. Sleeve 814 is configured and dimensioned to receive a portion of implant 22. In order to facilitate insertion and removal of end member 810 from implant 22, end member 810 is preferably made in two portions 816, 818. In an exemplary embodiment, portions 816, 818 are
20 pivotably connected at a pivot 820 so that portions 816, 818 can be separated, *i.e.* end member 810 opens. End member 810 also includes a locking mechanism for keeping the two portions 816, 818 in contact. In one embodiment, this locking mechanism comprises a first serrated edge 822 that cooperates with a second serrated edge 824.

FIGS. 12 and 13 show an end member 910 that includes inner and outer rings 912,
25 914. Inner ring 912 can be rotated relative to outer ring 914. Inner ring 912 has means for receiving a tool to rotate inner ring 912 (shown as holes 916 that accept prongs of the tool). Inner ring 912 also has a pair of protrusions 918 that cooperate with flexible prongs 920 located on outer ring 914. As inner ring 912 is rotated, protrusions 918 contact prongs 920 and force prongs 920 out in a radial direction. When end member 910 is fitted in implant
30 22, the outward radial movement of prongs 920 causes prongs 920 to press against implant 22 to secure end member 910 to implant 22.

FIG. 14 shows an end member 950 in which second portion 14 includes at least one projection 952. Projection 952 is pivotably connected to second portion 14 at junction 953 so that as a set screw 954 is screwed into threaded bore 956, set screw 954 causes outward
35 movement of projection 952. This outward movement secures end member 950 to implant

22. Junction 953 preferably has a reduced cross section compared to the rest of projection 952 so that the flexing caused by set screw 954 occurs in junction 953.

While various descriptions of the present invention are described above, it should be understood that the various features can be used singly or in any combination thereof.

5 Therefore, this invention is not to be limited to only the specifically preferred embodiments depicted herein.

Further, it should be understood that variations and modifications within the spirit and scope of the invention may occur to those skilled in the art to which the invention pertains. Accordingly, all expedient modifications readily attainable by one versed in the
10 art from the disclosure set forth herein that are within the scope and spirit of the present invention are to be included as further embodiments of the present invention. The scope of the present invention is accordingly defined as set forth in the appended claims.

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WE CLAIM:

1. An end member for use with an implant for fusing bone comprising:
a first portion with a top surface conforming in size and shape with the bone and
5 having a first channel for receiving a surgical instrument;
a second portion configured and dimensioned to be inserted into a bore of the
implant; and
a shoulder joining the first and second portions and sized to rest on an edge of the
implant when the second portion is inserted in the bore of the implant.
10
2. The end member of claim 1 wherein the top surface further comprises a
plurality of teeth for interlocking with the bone.
3. The end member of claim 2 wherein the teeth have a pyramid shape.
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4. The end member of claim 1 wherein the top surface is annular.
5. The end member of claim 1 wherein the top surface is solid.
- 20 6. The end member of claim 1 wherein the top surface is round.
7. The end member of claim 1 wherein the top surface is oval.
8. The end member of claim 1 wherein the top surface is oblong.
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9. The end member of claim 1 wherein the top surface is a flat planar surface.
10. The end member of claim 1 wherein the end member has a wedge-shaped
profile.
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11. The end member of claim 10 wherein the first portion has a first end and a
second end, the first end height being greater than the second end height to produce the
wedge-shaped profile.
- 35 12. The end member of claim 1 wherein the second portion includes a hole for
receiving a fastener to secure the end member to the implant.

13. The end member of claim 1 wherein an exterior surface of the second portion has a protuberance size to fit in an aperture of the implant to secure the end member to the implant.

5 14. The end member of claim 1 wherein the top surface has a second channel for receiving a surgical instrument.

15. The end member of claim 14 wherein the first and second channels run in an anterolateral direction.

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16. The end member of claim 14 wherein the first channel runs in an anterior-posterior direction and the second channel runs in a lateral direction.

17. The end member of claim 1 wherein the second portion comprises a plurality
15 of tabs to secure the end member to the implant.

18. The end member of claim 17 wherein each of the plurality of tabs is resilient, flexing inward upon insertion of the second portion in the implant and flexing back outward to secure the end member to the implant.

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19. The end member of claim 1 wherein the end member is made of the same material as the implant.

20. The end member of claim 1 wherein the end member is made of allograft
25 bone.

21. The end member of claim 1 further comprising:
a projection pivotably connected to the first portion;
a threaded bore in the second portion; and
30 a set screw threadably insertable in the threaded bore,
wherein insertion of the set screw in the threaded bore causes outward movement of the projection to secure the end member to the implant.

22. An end member for use with an implant for fusing bone comprising:
35 a top surface conforming in size and shape with the bone; and

a sleeve extending from the top surface and configured and dimensioned to receive an end of the implant,
wherein the end member further comprises first and second portions pivotable between an open position to facilitate receiving the end of the implant by the sleeve and a closed
5 position to secure the end member to the implant, and a locking element to fix the end member in the closed position.

23. An end member for use with an implant for fusing bone comprising:
an outer ring having a prong with a ramped surface; and
10 an inner ring rotatable with respect to the outer ring and including a protrusion, the protrusion contacting the ramped surface of the prong upon rotation to thereby urge the prong radially outward.

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END MEMBER FOR A BONE FUSION IMPLANT

ABSTRACT

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An end member for use with a bone fusion implant is disclosed. The end member has a first portion, a second portion, and a shoulder connecting the two portions. The second portion is sized to fit within the interior of the bone fusion implant in such a fashion that the shoulder rests on the edge of the implant. The top surface of the first portion has at least one slot to receive a surgical instrument such as an inserter and/or distractor to facilitate implantation of the end member and bone fusion implant. The top surface may also have teeth to provide initial mechanical stability between the bone and end plate and promote bone fusion.

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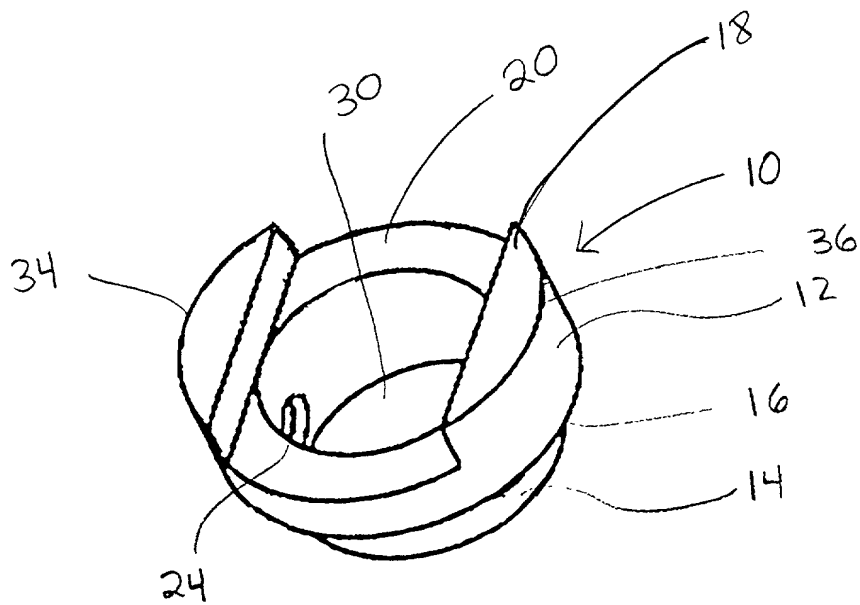


FIG. 1

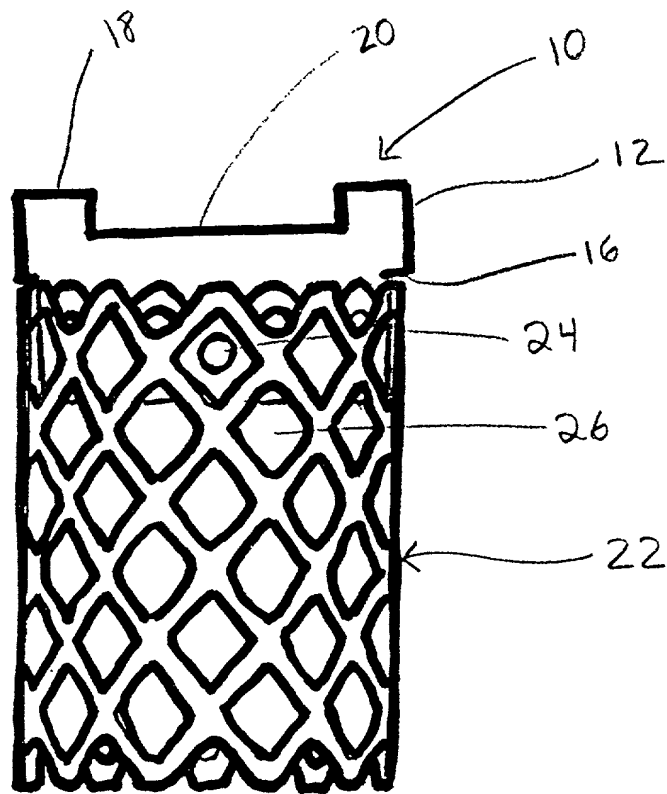


FIG. 2

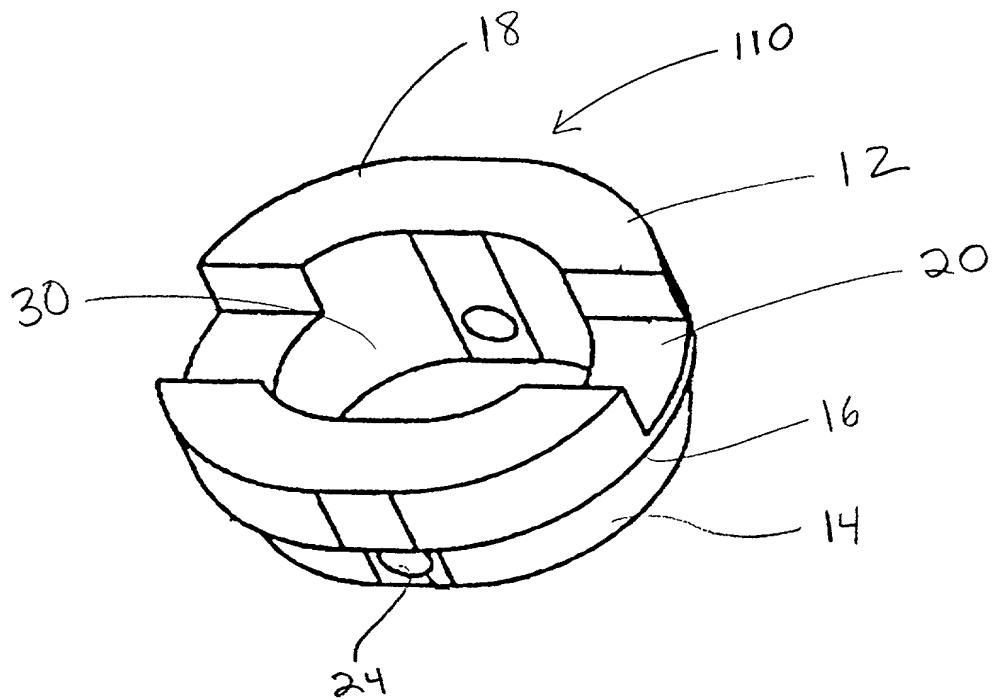


FIG. 3

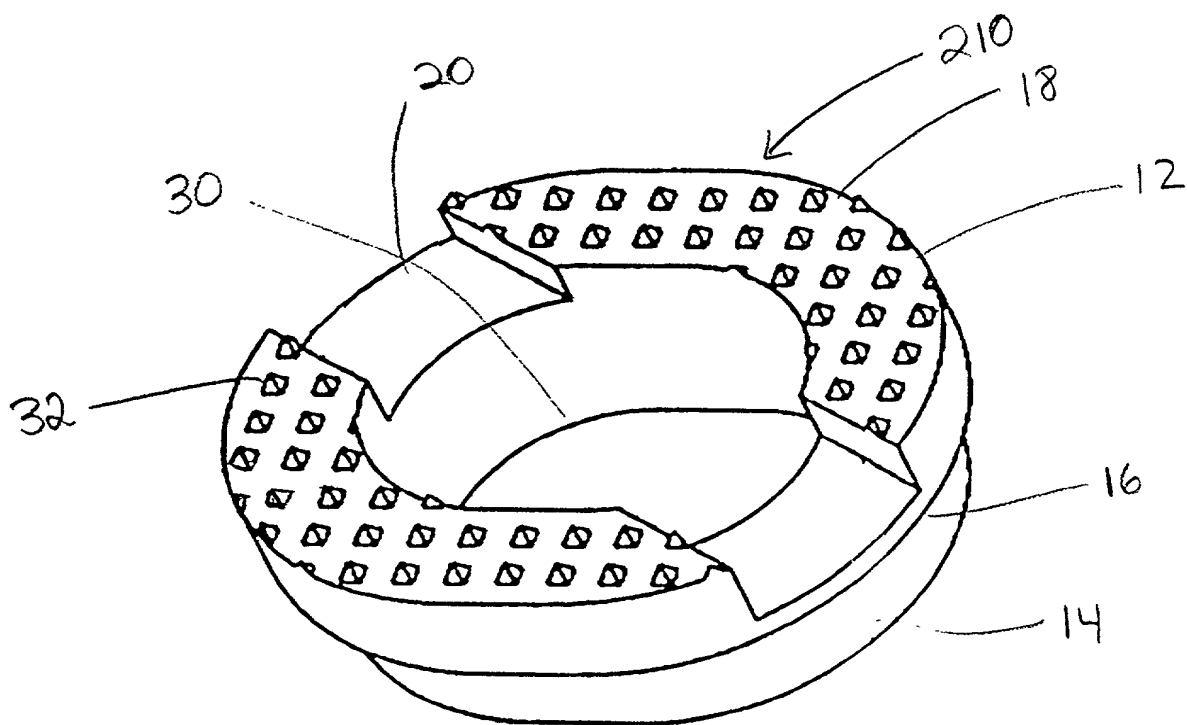


FIG. 4a

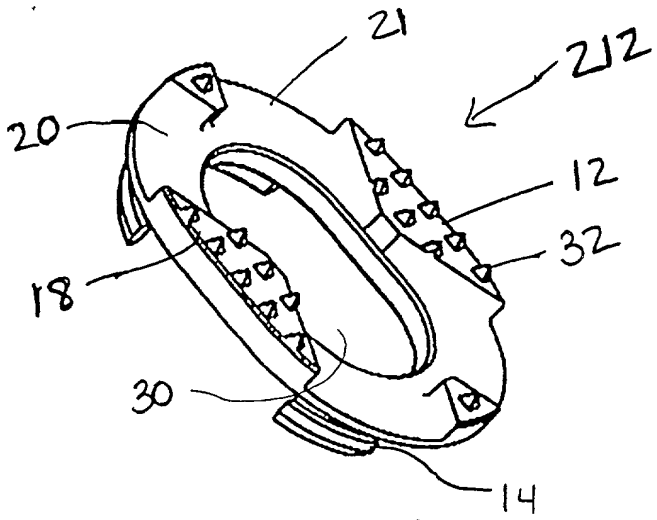


FIG. 4b

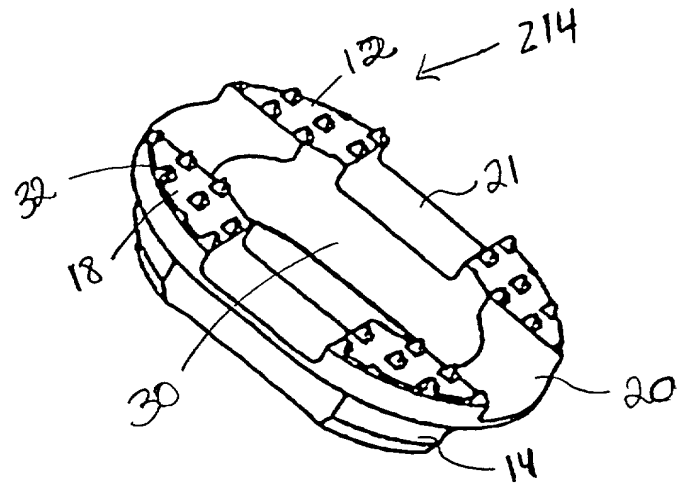


FIG. 4c

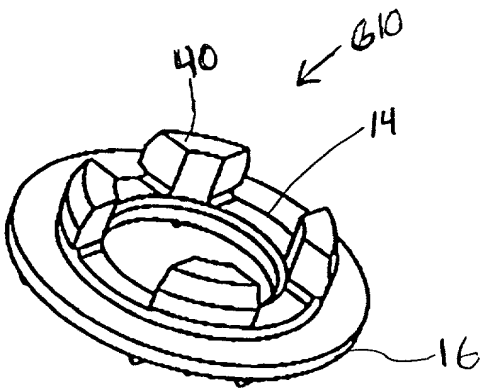


FIG. 8

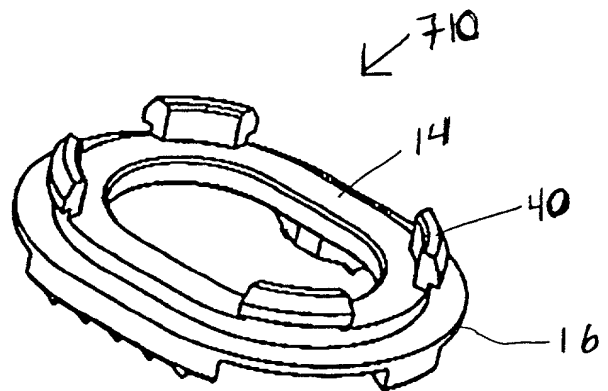


FIG. 9

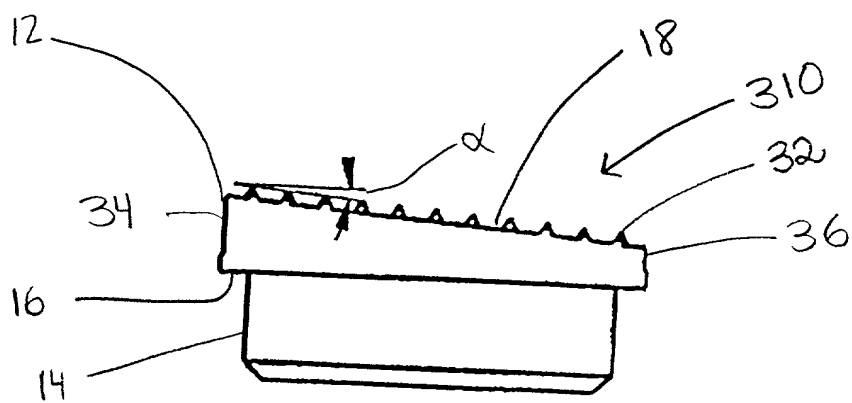


FIG. 5

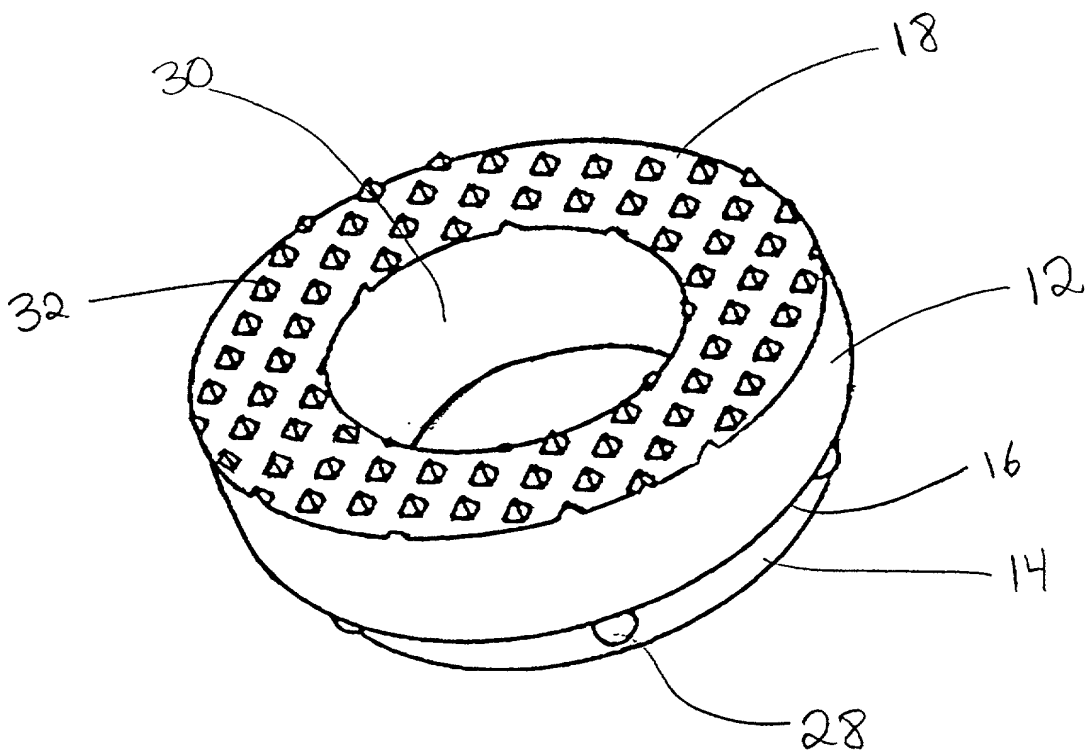


FIG. 6

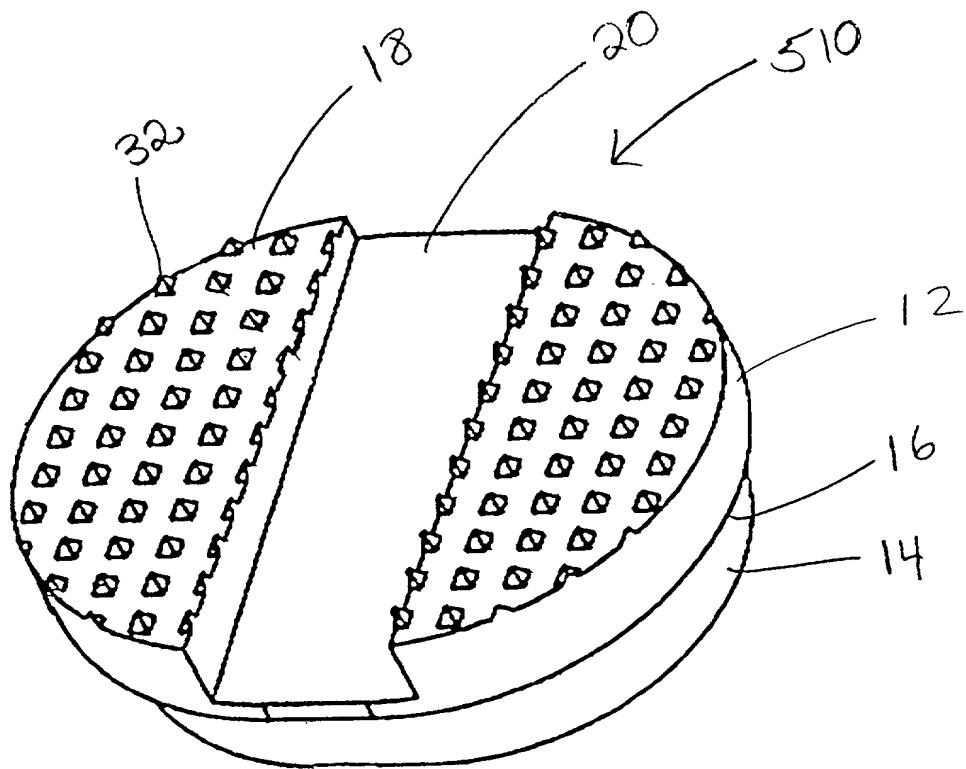


FIGURE 7

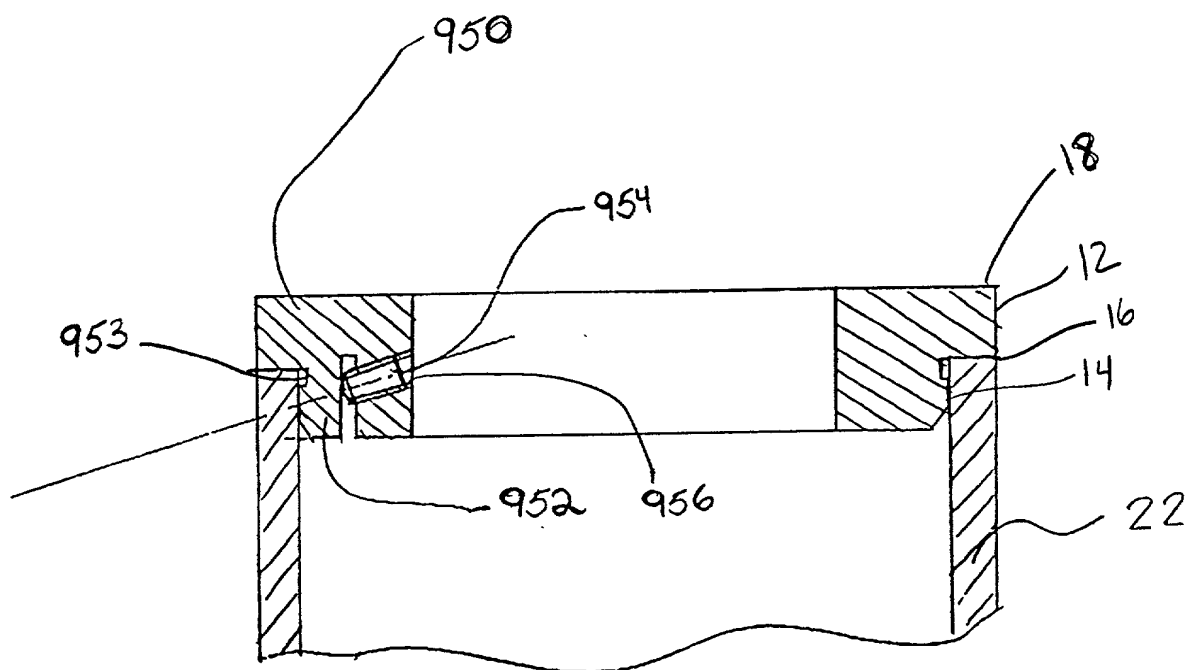


FIGURE 14

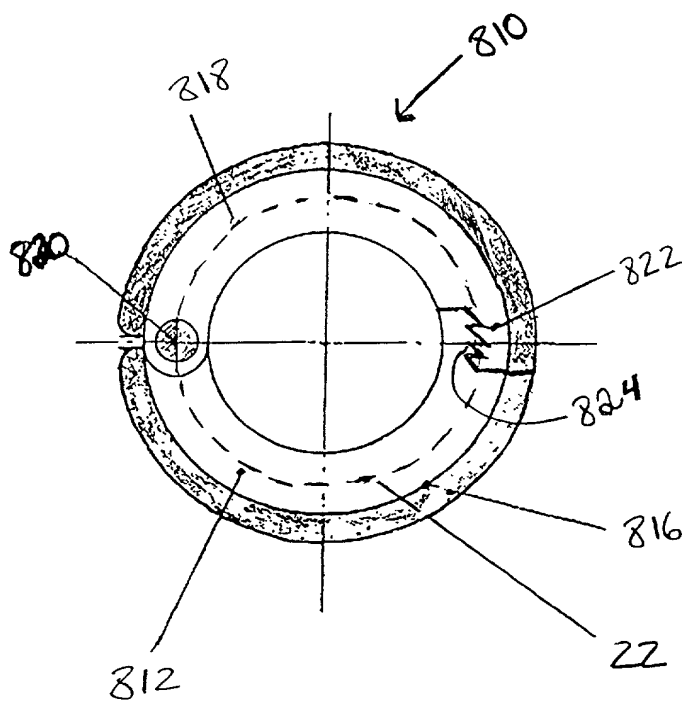


FIG. 10

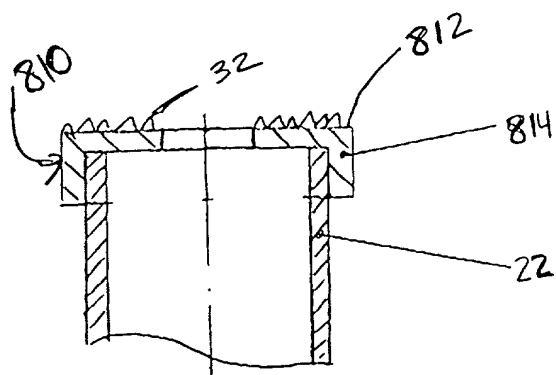


FIG. 11

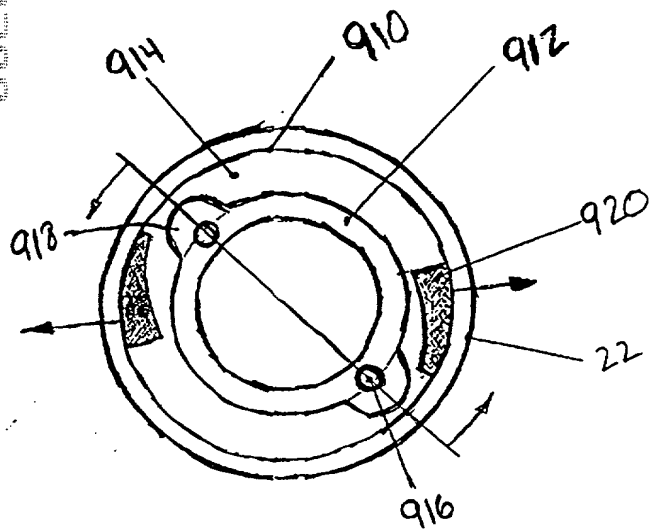


FIG. 12

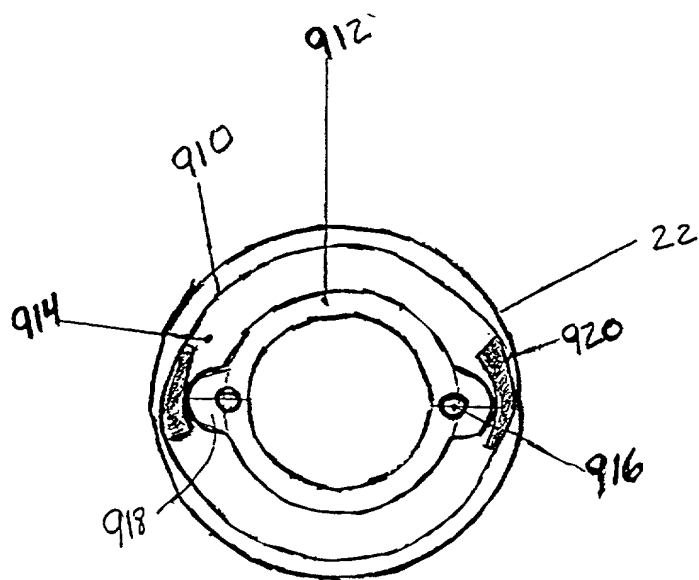


FIG. 13

DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below at 201 et seq. underneath my name.

I believe I am the original, first and sole inventor if only one name is listed at 201 below, or an original, first and joint inventor if plural names are listed at 201 et seq. below, of the subject matter which is claimed and for which a patent is sought on the invention entitled

END MEMBER FOR BONE FUSION IMPLANT

and for which a patent application:

☒ is attached hereto

I hereby state that I have reviewed and understand the contents of the above identified application, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, §1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, §119(a)-(d) of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

EARLIEST FOREIGN APPLICATION(S), IF ANY, FILED PRIOR TO THE FILING DATE OF THE APPLICATION			
APPLICATION NUMBER	COUNTRY	DATE OF FILING (day, month, year)	PRIORITY CLAIMED
			YES <input type="checkbox"/> NO <input type="checkbox"/>
			YES <input type="checkbox"/> NO <input type="checkbox"/>

I hereby claim the benefit under Title 35, United States Code, §119(e) of any United States provisional application(s) listed below.

APPLICATION NUMBER	FILING DATE
60/118,806	February 4, 1999

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code §112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

APPLICATION SERIAL NO.	FILING DATE	STATUS		
		PATENTED	PENDING	ABANDONED

POWER OF ATTORNEY: As a named inventor, I hereby appoint S. Leslie Misrock (Reg. No. 18872), Harry C. Jones, III (Reg. No. 20280), Berj A. Terzian (Reg. No. 20060), David Weild, III (Reg. No. 21094), Jonathan A. Marshall (Reg. No. 24614), Barry D. Rein (Reg. No. 22411), Stanton T. Lawrence, III (Reg. No. 25736), Charles E. McKenney (Reg. No. 22795), Philip T. Shannon (Reg. No. 24278), Francis E. Morris (Reg. No. 24615), Charles E. Miller (Reg. No. 24576), Gidon D. Stern (Reg. No. 27469), John J. Lauter, Jr. (Reg. No. 27814), Brian M. Poissant (Reg. No. 28462), Brian D. Coggio (Reg. No. 27624), Rory J. Radding (Reg. No. 28749), Stephen J. Harbulak (Reg. No. 29166), Donald J. Goodell (Reg. No. 19766), James N. Palik (Reg. No. 25510), Thomas E. Friebe (Reg. No. 29258), Laura A. Coruzzi (Reg. No. 30742), Jennifer Gordon (Reg. No. 30753), Allan A. Fanucci (Reg. No. 30256), Geraldine F. Baldwin (Reg. No. 31232), Victor N. Balancia (Reg. No. 31231), Samuel B. Abrams (Reg. No. 30605), Steven I. Wallach (Reg. No. 35402), Marcia H. Sundeen (Reg. No. 30893), Paul J. Zegger (Reg. No. 33821), Edmond R. Bannon (Reg. No. 32110), Bruce J. Barker (Reg. No. 33291), Adriane M. Antler (Reg. No. 32605), Thomas G. Rowan (Reg. No. 34419), James G. Markey (Reg. No. 31636), Thomas D. Kohler (Reg. No. 32797), Scott D. Stimpson (Reg. No. 33607), Gary S. Williams (Reg. No. 31066), William S. Galliani (Reg. No. 33885), Ann L. Gisolfi (Reg. No. 31956), Todd A. Wagner (Reg. No. 35399), Scott B. Familant (Reg. No. 35514), Kelly D. Talcott (Reg. No. 39582), Francis D. Cerrito (Reg. No. 38100), Anthony M. Insogna (Reg. No. 35203), Brian M. Rothery (Reg. No. 35340), Brian D. Siff (Reg. No. 35679), and Alan Tenenbaum (Reg. No. 34939), all of Pennie & Edmonds LLP, whose addresses are 1155 Avenue of the Americas, New York, New York 10036, 1667 K Street N.W., Washington, DC 20006 and 3300 Hillview Avenue, Palo Alto, CA 94304, and each of them, my attorneys, to prosecute this application, and to transact all business in the Patent and Trademark Office connected therewith.

SEND CORRESPONDENCE TO:

PENNIE & EDMONDS LLP
1667 K Street, N.W.
Washington, D.C. 20006

DIRECT TELEPHONE CALLS TO:
PENNIE & EDMONDS LLP DOCKETING
(202) 496-4721

201	FULL NAME OF INVENTOR	LAST NAME MESSERLI	FIRST NAME Dominique	MIDDLE NAME D
	RESIDENCE & CITIZENSHIP	CITY West Chester	STATE OR FOREIGN COUNTRY PA	COUNTRY OF CITIZENSHIP U.S.A. Switzerland DM 1/20/00
	POST OFFICE ADDRESS	STREET 300 Anglesey Terrace	CITY West Chester	STATE OR COUNTRY PA ZIP CODE 19380
202	FULL NAME OF INVENTOR	LAST NAME PAUL	FIRST NAME David	MIDDLE NAME C.
	RESIDENCE & CITIZENSHIP	CITY Drexel Hill PHOENIXVILLE	STATE OR FOREIGN COUNTRY PA	COUNTRY OF CITIZENSHIP USA INDIA Dep 1/20/00
	POST OFFICE ADDRESS	STREET 1813 Valley Road 405 GREENE LANE	CITY Drexel Hill PHOENIXVILLE	STATE OR COUNTRY PA ZIP CODE 19026 19460
203	FULL NAME OF INVENTOR	LAST NAME	FIRST NAME	MIDDLE NAME
	RESIDENCE & CITIZENSHIP	CITY	STATE OR FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP
	POST OFFICE ADDRESS	STREET	CITY	STATE OR COUNTRY ZIP CODE
204	FULL NAME OF INVENTOR	LAST NAME	FIRST NAME	MIDDLE NAME
	RESIDENCE & CITIZENSHIP	CITY	STATE OR FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP
	POST OFFICE ADDRESS	STREET	CITY	STATE OR COUNTRY ZIP CODE
205	FULL NAME OF INVENTOR	LAST NAME	FIRST NAME	MIDDLE NAME
	RESIDENCE & CITIZENSHIP	CITY	STATE OR FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP
	POST OFFICE ADDRESS	STREET	CITY	STATE OR COUNTRY ZIP CODE
206	FULL NAME OF INVENTOR	LAST NAME	FIRST NAME	MIDDLE NAME
	RESIDENCE & CITIZENSHIP	CITY	STATE OR FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP
	POST OFFICE ADDRESS	STREET	CITY	STATE OR COUNTRY ZIP CODE

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

SIGNATURE OF INVENTOR Dominique D. MESSERLI	SIGNATURE OF INVENTOR David C. PAUL
DATE 1/20/00	DATE 1/20/00